THE HONOURABLE SRI JUSTICE

A.GOPAL REDDY

W.P.No.26847 of 1995

Dt.06-03-2006

Between:

Shaik Mahboob Basha

..Petitioner

and

1.The Executive Officer, Beshavarapupet Gram Pancahayt,

Beshavarapupet village and Mandal, Prakasam District

and others.

..Respondents

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Oral Order:

Petitioner who erected the bunk near the bus stand of Besthavarapupet village and eking out live-li-hood was served with special notice by the Executive Officer of the 1st respondent Gram Panchayat impugned in the present writ petition calling upon to remove the bunk within three days failing to do so necessary action will be taken under the provisions of A.P. Gram Panchayat Raj Act, 1994 (for short "the Act").

Questioning the correctness of the same present writ petition is filed stating that petitioner's mother erected the bunk 15 years ago and they are regularly paying the license fee for the same. While so, during the course of "*Prajala Vaddaku Palana Sadassu*" (Administration to the people) the 3rd respondent instigated his supporters to give a petition against the petitioner. As a result of which the above notice was issued as he being the supporter of opposite political party. There are 30 of such encroachments as mentioned in the affidavit who are in occupation of the road margin and petitioner was single out for eviction, which is purely discriminatory and in violation of Article 14 of the Constitution.

Opposing the same Gram Panchayat filed a counter denying petitioner erecting the bunk 15 years back, but admitted his paying the annual license fees for vegetable shop and bunk to the Gram Panchayat. During the course of "*Prajala Vaddaku Palana Sadassu*" held at Besthavarapupet a petition was received from the people complaining that vegetable shop and bunk of the petitioner is obstructing access to the bore well. Pursuant to the said petition an enquiry was ordered. During the spot inspection it was noticed that the petitioner encroached into the area of bore well obstructing the village people in taking water from the bore well and accordingly Gram Panchayat passed a resolution for removal of illegal encroachments in the public interest and the action initiated is in accordance with Section 98 of the Act. Petitioner, if aggrieved by the order of the 1st respondent can prefer an appeal.

Section 98 of the Gram Panchayat Act authorizes the Gram Panchayat to remove the encroachments. If the owner or occupier of the building proves that such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give any person a prescriptive title thereto or that it was erected or made with the permission or licence of any local authority duly empowered in that behalf, and that the periled, if any, for which the permission or licence is valid has not expired, the Gram Panchayat shall make reasonable compensation to every person who suffers damages by the removal or alteration of the same.

Since the petitioner's bunk is erected on the public road, the action initiated by the Gram Panchayat to remove the same to facilitate the people to take the bore well water cannot be termed as arbitrary or illegal. It is the bounden duty of the Gram Panchayat to remove all such encroachments to have the people free passage without any obstruction.

Learned counsel for the petitioner seeks three months time for removing the encroachment. Accordingly, petitioner is granted three months time to remove such encroachment, failing to do so it is open for the authorities to proceed in accordance with law.

The writ petition is accordingly dismissed. No costs.

_____ A.GOPAL REDDY, J.

06-03-2006

Murthy